

REMARKS

Reconsideration and allowance of the above-reference application are respectfully requested. Claims 4, 23, and 38 are canceled without prejudice or disclaimer, and new claim 49 is added. Claims 1-3, 5-22, 24-37, and 39-49 are pending in the application.

The rejection of claims 10, 29, and 44 under 35 USC 112, second paragraph, is respectfully traversed. Each of the respective independent claims 1, 20, 35 specify "*selectively* terminating the instance based on detecting ... a prescribed variable being set upon the instance reaching the prescribed location in the prescribed sequence." The recital of "*selectively* terminating" reads on the possibility that the prescribed variable is not set, at which point the terminating step is *not* performed.

Hence, the claimed "*absence* of the prescribed variable being set" of claims 10, 29 and 44 refers to the above-described possibility that the prescribed variable is *not set*. In other words, if the prescribed variable is not set, then the claimed instance need not be terminated, but rather the messaging operations can be completed. Consequently, the claims 10, 29 and 44 specify "completing execution of the messaging operations ... based on an absence of the prescribed variable being set...." One skilled in the art would interpret claims 10, 29 and 44 using the logic that: if the prescribed variable is not set, then complete execution of the messaging operations, however if the prescribed variable is set, then terminate the instance.

Hence, the §112, second paragraph rejection should be withdrawn.

Claims 1, 2, 10-12, 16, 20, 21, 29-31, 35, 36, 44 and 45 stand rejected under 35 USC 102 in view of US Patent number 6,775,249 to Gibson. This rejection is respectfully traversed.

Each of the independent claims 1, 11, 16, 20, 30, 35 and 45 specify that an instance of an application process, configured for executing a prescribed sequence of messaging operations for a first type of incoming message, is *selectively terminated* prior to completing the sequence of messaging operations based on the incoming message corresponding to a second message type incompatible with the first type.

For example, claims 1, 20 and 35 as amended specify operations in an application server,

including "selectively terminating the instance prior to completing the sequence of messaging operations based on ... the prescribed variable having been set to specify that the incoming message corresponds to a second message incompatible with the first type." Independent claim 45 as amended specifies an application server having an application runtime environment configured for "selectively terminating the instance [configured for executing messaging operations for the first type of incoming message] prior to completing the sequence of messaging operations based on detecting the reject message ... specifies that the incoming message corresponds to the second message type [incompatible with the first message type]".

Independent claims 11, 16, and 30 specify operations in a communications system having a gateway in the application server that selectively terminates the instance (configured for executing a messaging session for the first message type), prior to completion of executing the prescribed sequence of messaging operations, in response to a reject message, the reject message output by the gateway to the application server in response to detecting that the incoming call corresponds to a second message type incompatible with the first message type.

Hence, each of the independent claims specify that the instance of the application process is initiated for the first type of incoming message, and *selectively terminated prior to* completing the sequence of messaging operations based on detecting that the incoming message corresponds to a second type that is incompatible with the first type. Consequently, an application instance can be started for processing a message according to a corresponding message type, even before a gateway has determined the message type for the incoming call: if the application instance does not match the message type for the incoming call, the instance is terminated due to its being a nonrelevant messaging session.

Hence, messaging operations can be initiated more quickly, without the delay typically encountered while waiting for a gateway to determine whether an incoming call is a voice call, fax call, etc. (see page 2, line 22 to page 5, line 3 of the specification).

In addition, the claimed selective termination of the instance enable a gateway to initiate ***multiple concurrent messaging sessions*** for respective message types, where the nonrelevant messaging sessions are terminated based on identifying the message type for the incoming call

(see, for example, dependent claims 12, 31 and 49). Hence, call processing performance is optimized with no loss of data in the application server. These and other features are neither disclosed nor suggested in the applied prior art.

Gibson describes a system for handling misdialed fax calls (see column 1, lines 5-26). In particular, Gibson describes that changes in dialing code regimes have caused an increase in misdialed facsimile calls (col. 1, lines 11-26); further, audible error messages are less effective than when transmitted to voice terminals, because facsimile terminal users often do not hear the audible error messages (col. 1, lines 26-30).

Hence, Gibson performs the following operations:

(1) determines whether a transmitting station (e.g., fax terminal 100 of Fig. 1) has caused a dialing error (call monitoring facility 200 of Fig. 2 determines if call is to an invalid destination, col. 4, lines 33-45) (step 405 of Fig. 4a) – if there is no dialing error, then call routing is performed per normal procedures (step 415 of Fig. 4a).

If a dialing error *is* detected, Gibson performs the following subsequent steps:

(2) identifies the transmitting station having caused the dialing error (GIRAFF unit 220 of Figs. 2 and 3 captures calling number of terminal 100 and called number, col. 4, lines 39-58, steps 420 and 425 of Fig. 4a),

(3) plays a voice message during the call, ***regardless of whether the call is for a fax call or a voice call*** (steps 460 and 465 of Fig. 4a, col. 7, lines 39-53, col. 9, lines 15-36); and concurrently detects whether the call is a fax call (step 475 of Fig. 4b, col. 9, lines 20-36), and

(4) disconnects the calling fax terminal ***only after having completed playing the voice message*** (col. 5, lines 1-6, step 470 of Fig. 4a, 4950 of Fig. 4b, col. 7, lines 45-53, col. 9, lines 31-36).

(5) ***After the original fax call has been disconnected following completion of playing the voice message*** (step 4955 of Fig. 4b, col. 9, lines 31-43), Gibson starts a new call to send back to the transmitting station a fax message notifying the original transmitting station of the dialing error, based on the determined call being a fax call (steps 4960, 4965, 4970 of Fig. 4b, col. 5, lines 10-17, col. 9, lines 40-43).

As apparent from the foregoing, Gibson requires that the entire voice message is played to the calling fax terminal, *regardless of whether the call is for a fax call or a voice call*. Hence, Gibson requires the continued waste of text-to-speech system resources (*cf.* col. 7, lines 40-52), and neither discloses nor suggests the claimed selective termination of an instance prior to completing the sequence of messaging operations, as claimed. Rather, Gibson discloses that the *entire voice message operation* is to be performed prior to disconnect.

For these and other reasons, the §102 rejection of independent claims 1, 11, 16, 20, 30, 35, and 45 should be withdrawn.

Further, Gibson neither discloses nor suggests the claimed initiation of a second concurrent messaging session, as specified in claims 12 and 31; rather, Gibson requires the subsequent new fax connection (steps 4960, 4965, 4970 of Fig. 4b, col. 5, lines 10-17, col. 9, lines 40-43) that follows the disconnect in step 4950 to transmit the fax-based error message in steps 4960 and steps 4965. For these and other reasons, claims 12 and 31 are further patentable over Gibson.

It is believed the remaining dependent claims are allowable in view of the foregoing.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-1130, under Order No. 95-462, and please credit any excess fees to such deposit account.

Respectfully submitted.

A handwritten signature in black ink, appearing to read 'L R Turkevich', with a stylized flourish at the end.

Leon R. Turkevich
Registration No. 34,035

Customer No. 23164
(202) 261-1059
Date: August 5, 2005